

Appl. No.: 10/667,935
Art Unit: 1712 Docket No.: B03-60
Reply to Office Action of March 18, 2005

REMARKS

Claims 1-14 appear in this application for the Examiner's review and consideration.

Claim 4 has been amended to recite clarify that the structure is prior to grafting and to correct ambiguous claim language. Support for the amended element is found in the Specification, on page 19, lines 4-5.

Claims 15 and 16 have been withdrawn without prejudice to Applicants' right to file one or more continuing applications directed to any subject matter not presently claimed.

No new matter has been added by these amendments and additions.

Restriction Requirement Under 35 U.S.C. § 121

During a telephone conversation with Examiner Buttner on March 11, 2005, a provisional election was made, with traverse, to prosecute Group I, claims 1-14. Applicants affirm this election and note that claims 15 and 16 are withdrawn from further consideration.

Objection to the Specification

The Specification was objected to under 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o) for allegedly failing to provide proper antecedent basis for the claimed subject matter.

Regarding claim 1 and claim 2, Applicants respectfully traverse the objection and direct the Examiner to the Specification at page 11, lines 16-17 where it states that "the inner cover layer ... is preferably formed from a hard, high flexural modulus, resilient *material*..."; and lines 20-22 where the term "high flexural modulus" is further defines to mean "a flexural modulus... of at least about 65,000 psi... to about 120,000 psi". In this embodiment, the inner cover layer 'first material', not the layer as asserted by the Examiner, should have a flex modulus of 65,000 psi to 120,000 psi. Any of the inner cover layer materials disclosed, such as those recited in claim 2 and listed in the Specification on page 13, lines 1-5, are, therefore, suitable in this embodiment as long as they fall within the flex modulus recited in claim 1. Additionally, numerous locations in the Specification, such as on page 26, lines 14-15, disclose that the grafted metallocene polymer can also be blended with other polymers (*i.e.*, non-grafted metallocene polymers and non-ionic polymers).

Regarding claim 3, the listed materials are not "alternative inner covers" as stated on page 3 of the Office Action, but rather precursors to the grafted metallocene polymer.

Appl. No.: 10/667,935
Art Unit: 1712 Docket No.: B03-60
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Given the above traverse of the Examiner's objection to the Specification, Applicants do not believe that a re-designation as a continuation-in-part, claim amendments, or updating of the status of the parent application are necessary at this point and respectfully request confirmation of such by the Examiner.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claim 4 was rejected under 35 U.S.C. § 112, second paragraph. As such, claim 4 has been amended to recite that the grafted metallocene polymer is produced by grafting a functional group onto a metallocene-catalyzed polymer to clarify that the structure is prior to grafting. Applicants have also amended claim 4 to correct ambiguous claim language.

The rejection under 35 U.S.C. § 112, second paragraph, is therefore believed to have been overcome. Applicants respectfully request reconsideration and withdrawal thereof.

Rejection Over Rajagopalan '082 In View of Sullivan '119

Claims 1-14 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,414,082 to Rajagopalan in view of U.S. Patent No. 6,083,119 to Sullivan.

Per M.P.E.P. § 706.02(k)(E), 103(a) rejections can be overcome for an application filed on or after November 29, 1999, by showing that the prior art and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Such prior art is now disqualified as prior art against the claimed invention.

The present application was filed on September 22, 2003, and is owned by Acushnet Company, the assignment of which is recorded at reel 014536 and frame 0050. On or before September 22, 2003, Rajagopalan '082 was a U.S. Patent Application bearing Serial No. 09/594,031, and according to the assignment recorded at reel 010917 and frame 0285, was commonly owned with the present application by Acushnet Company. Therefore, at the time the present invention was made, the Rajagopalan reference and the claimed invention were commonly owned by the same entity.

Sullivan, by itself, does not disclose, or even suggest, all claim elements of the present invention and is not sufficient by itself to support an obviousness rejection.

Appl. No.: 10/667,935
Art Unit: 1712 Docket No.: B03-60
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For at least the above reasons, the 103(a) rejection is believed to have been overcome. Independent claim 1 is believed to be in condition for allowance and the dependent claims are believed to be patentable at least by virtue of their dependence from claim 1. As such, Applicants respectfully request that the rejection be reconsidered and withdrawn.

Obviousness-Type Double Patenting Rejections

Claims 1-14 were rejected under the judicially-created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-51 of U.S. Patent No. 6,677,401 and claims 1-40 of U.S. Patent No. 6,414,082 in view of U.S. Patent No. 6,083,119. While Applicants disagree with the Examiner's rejection, in an effort to further prosecution of the instant application, a terminal disclaimer is included herewith.

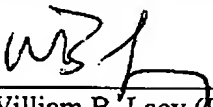
CONCLUSION

Based on the remarks set forth above, Applicants believe that all of the rejections have been overcome and the claims of the subject application are in condition for allowance. Should the Examiner have any further concerns or believe that a discussion with the Applicants' attorney would further the prosecution of this application, the Examiner is encouraged to call the attorney at the number below.

No fee, other than \$130.00 for the terminal disclaimer, is believed to be due for this submission. Should any other required fees be required, however, please charge them to Acushnet Company Deposit Account No. 502309.

Respectfully submitted,

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